

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

**IN RE: NEW ENGLAND
COMPOUNDING PHARMACY, INC.
PRODUCTS LIABILITY LITIGATION**

Master Docket No. 1:13-md-2419-FDS

CONSTANCE GAY RHODES,

Plaintiff,

v.

**NEW ENGLAND COMPOUNDING
PHARMACY, INC. d/b/a NEW
ENGLAND COMPOUNDING CENTER,**

**This Document Relates To:
Civil Action No. 1:13-cv-10504-FDS**

and

**CARILION SURGERY CENTER
NEW RIVER VALLEY LLC, D/B/A
NEW RIVER VALLEY SURGERY
CENTER, LLC,**

Defendants.

**CARILION SURGERY CENTER NEW RIVER VALLEY LLC,
D/B/A NEW RIVER VALLEY SURGERY CENTER, LLC'S
MOTION TO DISMISS PLAINTIFF'S COMPLAINT**

COMES NOW Defendant Carilion Surgery Center New River Valley, LLC, d/b/a New River Valley Surgery Center, LLC, by counsel, and moves the Court to dismiss Plaintiff's Complaint for failure to state a claim upon which relief can be granted pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, for the reasons set forth in its Memorandum of Law filed herewith.

Respectfully submitted,

CARILION SURGERY CENTER NEW RIVER
VALLEY LLC, D/B/A NEW RIVER VALLEY
SURGERY CENTER, LLC

By: /s/ Michael P. Gardner
Of Counsel

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New River Valley, LLC, d/b/a New River Valley
Surgery Center, LLC*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 11th day of June 2013, a true and exact copy of the foregoing was filed with the Clerk of the Court using the CM/ECF filing system, thereby providing electronic notice to jtravers@millerfirmllc.com, mmiller@millerfirmllc.com, and will@moodyrrlaw.com, counsel for plaintiff, and to rebecca.herbig@bowmanandbrooke.com, counsel for defendant NECC. Paper copies will be sent to those indicated as non registered participants on June 11, 2013.

/s/ Michael P. Gardner